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No. 93-105

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

DIGITAL EQUIPMENT CORPORATION,
Petitioner,

v.

DESKTOP DIRECT, INC.,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

JOINT APPENDIX VOLUME I

JOHN G. ROBERTS, JR.*
DAVID G. LEITCH
DENISE P. LINDBERG
HOGAN & HARTSON
555 Thirteenth Street, N.W.
Washington, D.C. 20004
(202) 637-5810

LAURENCE R. HEFTER
DAVID M. KELLY
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
1300 I Street, N.W.
Washington, D.C. 20005
(202) 408-4000

THOMAS C. SIEKMAN
ANDREW C. HOLCOMB
DIGITAL EQUIPMENT CORPORATION
111 Powdermill Road
Maynard, MA 01754
(508) 493-3264
Counsel for Petitioner

REX E. LEE
CARTER G. PHILLIPS
JANET M. LETSON
SIDLEY & AUSTIN
1722 Eye Street, N.W.
Washington, D.C. 20006
(202) 736-8000

JOHN PAUL KENNEDY *
1385 Yale Avenue
Salt Lake City, Utah 84105
(801) 583-6170

H. ROSS WORKMAN
LARRY R. LAYCOCK
WORKMAN, NYDEGGER & JENSEN
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111
(801) 533-9800
Counsel for Respondent

* Counsel of Record

PETITION FOR CERTIORARI FILED SEPTEMBER 13, 1993
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District Court Order Granting Motion to Withdraw Notice of Dismissal and to Rescind the Settlement Agreement .....Pet. App. 12a

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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH
(Central)

Civil Docket for Case #92-CV-178

DESKTOP DIRECT, INC.,
a Utah corporation,
Plaintiff,

v.

DIGITAL EQUIPMENT CORPORATION,
a Massachusetts corporation,
Defendant.

RELEVANT DOCKET ENTRIES

Date	No.	Proceedings
2/28/92	1	Complaint filed, assigned to Judge JTG. Receipt #: 45400 (bn) [Entry date 03/02/92]
2/28/92	—	Summons(es) issued for Digital Equip Corp (bn) [Entry date 03/02/92]
3/26/92	2	Notice of voluntary dismissal (ch)
4/2/92	—	Case closed (ch)
9/17/92	3	Motion by Desktop Direct Inc to withdraw [2-1] notice of dismissal, and to rescind the stlmt agrmt on the basis of fraud in the inducemt (ch) [Entry date 09/18/92]
9/17/92	4	Memorandum by Desktop Direct Inc in support of [3-2] motion to rescind the stlmt agrmt on the basis of fraud in the inducemt, [3-1] motion to withdraw [2-1] notice of dismissal (ch) [Entry date 09/18/92]

Date	Nr.	Proceedings
10/1/92	5	Motion by Desktop Direct Inc to seal part of the record until further order (ch)
10/1/92	6	Order granting [5-1] motion to seal part of the record until further order signed by JTG 10/1/92; cc:attys (ch)
10/1/92	7	Notice, by Clerk of Court, regarding original pages removed from court's file pursuant to order (doc #6) (ch)
10/1/92	8	Supp Memorandum by Desktop Direct Inc in support of [3-1] motion to withdraw [2-1] notice of dismissal, [3-2] motion to rescind the stlmt agrmt on the basis of fraud in the inducemt (ch) [Entry date 10/02/92]
10/16/92	11	Memorandum by Desktop Direct Inc in opposition to [3-1] motion to withdraw [2-1] notice of dismissal, [3-2] motion to rescind the stlmt argmt on the basis of fraud in the inducemt (ch) [Entry date 10/19/92]
10/16/92	12	Declaration of Laurence R. Hefter (ch) [Entry date 10/19/92]
10/16/92	13	Declaration of David M. Kelly (ch) [Entry date 10/19/92]
10/16/92	14	Declaration of Barry H. Yanes (ch) [Entry date 10/19/92]
10/16/92	15	Declaration of Janis M. Larue (ch) [Entry date 10/19/92]
11/9/92	25	Reply by Desktop Direct Inc to response to [3-1] motion to withdraw [2-1] notice of dismissal, [3-2] motion to rescind the stlmt agrmt on the basis of fraud in the inducemt (ch) [Entry date 11/10/92]
12/18/92	30	Minute entry:, Motion hearing held for [3-1] motion to withdraw [2-1] notice of dismissal, held for [3-2] motion to rescind the stlmt

Date	Nr.	Proceedings
		argmt on the basis of fraud in the inducemt [3-1] motion to withdraw [2-1] notice of dismissal taken under advisement, [3-2] motion to rescind the stlmt agrmt on the basis of fraud in the inducemt taken under advisement; Judge: J. Thomas Green Court Reporter: Reeve Butler Court Deputy: Theresa Brown (tb)
1/5/93	31	Order granting [3-1] motion to withdraw [2-1] notice of dismissal granting [3-2] motion to rescind the stlmt agrmt on the basis of fraud in the inducemt signed by JTG 1/5/93; cc:attys (ch)
1/5/93	—	Case reopened (ch)
1/19/93	33	Return of summons executed as to Digital Equip Corp 1/19/93 Answer due on 2/8/93 for Digital Equip Corp (ch) [Entry date 01/20/93]
2/4/93	34	Notice of appeal by Digital Equip Corp appealing from the order granting pltf's motion to withdraw notice of dismissal and to rescind settlement agreement entered 1/5/93; Fee Status: paid #051518 (lynn) [Entry date 02/05/93]
2/5/93	35	Notice of appeal and certified copy of docket to USCA: Appeal packets to cnsl RE [34-1] appeal (lynn)
2/8/93	36	Motion by Digital Equip Corp to extend time to answer (ch) [Entry date 02/09/93]
2/8/93	37	Memorandum by Digital Equip Corp in support of [36-1] motion to extend time to answer (ch) [Entry date 02/09/93]
2/12/93	38	Objections by Desktop Direct Inc [36-1] motion to extend time to answer (ch)

Date	Nr.	Proceedings
2/16/93	41	Motion by Digital Equip Corp for reconsideration of [31-1] order (ch) [Entry date 02/17/93]
2/16/93	42	Memorandum by Digital Equip Corp. in support of [41-1] motion for reconsideration of [31-1] order (ch) [Entry date 02/17/93]
2/16/93	43	Alternative Motion by Digital Equip Corp to stay the Ct's 1/5/93 Order Pndg Appeal if Def's Mot/Recon is Denied (ch) [Entry date 02/17/93]
2/16/93	44	Memorandum by Digital Equip Corp in support of [43-1] motion to stay the Ct's 1/5/93 Order Pndg Appeal if Def's Mot/Recon is Denied (FILED UNDER SEAL) (ch) [Entry date 02/17/93]
2/22/93	46	Reply by Digital Equip Corp to response to [36-1] motion to extend time to answer (ch)
3/15/93	—	Transcript of Proceedings for dates of 12/18/92 (mw)
3/16/93	47	Order denying [41-1] motion for reconsideration of [31-1] order, denying [43-1] motion to stay the Ct's 1/5/93 Order Pndg Appeal if Def's Mot/Recon is Denied, denying [36-1] motion to extend time to answer signed by JTG 3/15/93; cc:attys (ch)
3/23/93	48	Motion by Desktop Direct Inc to extend time to respond to def's mot to seal record (mr) [Entry date 03/24/93]
3/23/93	49	Notice of Withdrawal of [39-1] motion to seal a portion of the record (mr) [Entry date 03/24/93]
3/30/93	50	Answer to Complaint by Digital Equip Corp (ch) [Entry date 03/31/93]

Date	Nr.	Proceedings
5/19/93	51	Certified copy of mandate from USCA Re: [34-1] appeal dismissing [34-1] appeal (lynn) [Entry date 05/21/93]
5/21/93	52	Certificate of service by Desktop Direct Inc re: first set of requests for prod of documents & things, first set of interrog, first set of requests for admission (bn) [Entry date 05/24/93]
5/26/93	53	Notice of Hearing filed: status conference set for 10:00 6/11/93 JUDGE: JTG (bn)
6/11/93	54	Minute entry: status conference held, pla rep by John Paul Kennedy, Larry R. Laycock, def rep by David M. Kelly, J. Preston Stieff. Discussion held. Cnsl are to prep a disc order identifying the issues and agrd disc purs to Rule 26F FRCP. Depos are ltd to 3 per side. Further discussion will be held at a disc conference at which time the stip disc order is to be delivered to the Ct to be finalized. discovery hearing set for 1:00 7/9/93; if the ptys stip to form of disc order, Mr. Kelly need not apr. Judge: J.T. Greene, Court Reporter: Patti Walker, Court Deputy: Catherine Hollstein (ch) [Entry date 06/14/93]
6/21/93	55	Stipulation by Digital Equip Corp, Desktop Direct Inc stip to extend time to 7/5/93 for Digital Equip Corp to respond to pla's disc requests (bn) [Entry date 06/22/93]
6/23/93	56	Order granting [55-1] stipulation motion stip to extend time to 7/5/93 for Digital Equip Corp to respond to pla's disc requests signed by JTG 6/22/93 (bn)
7/7/93	57	Certificate of service by Digital Equip Corp re: responses & obj to first set of requests for admission; responses & obj to first set of requests for prod of documents & things; ans & obj to first set of interrog (bn)

Date	Nr.	Proceedings
7/9/73	—	Discovery hearing held (kj) [Entry date 07/12/93]
7/9/93	58	Minute entry: Discovery hrg held, John Paul Kennedy for pla & J. Preston Stieff for dft present; scheduling order deadlines: setting Status conference by 9:30 1/14/94 Discovery deadline on 12/1/93 Deadline for filing of all motions by 12/30/93; Mr. Kennedy to prepare the order; Judge: Thomas Greene Court Reporter: Reeve Butler Court Deputy: Kim Jones (kj) [Entry date 07/12/93]
9/21/93	59	Motion by Desktop Direct Inc to Take Deposition of Janis LaRue in SLC (bn)
9/21/93	60	Memorandum by Desktop Direct Inc in support of [59-1] motion to Take Deposition of Janis LaRue in SLC (bn)
10/8/93	61	Notice of stay by Digital Equip Corp. Supreme Court order of 10/4/93 granted Digital's application for stay. By staying the effect of this court's 1/5/93 order, the Supreme Court has stayed this action in its entirety. (hm)
10/8/93	—	Action STAYED. See document #61. (hm)
10/15/93	62	Letter from USCA Re: Notice of Petition for Writ of Certiorari filed 9/13/93 and assigned Supreme Court No. 93-405 (lynn) [Entry date 10/19/93]

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

No. 93-4024

DESKTOP DIRECT, INC.,
a Utah corporation,
Plaintiff-Appellee,

v.

DIGITAL EQUIPMENT CORPORATION,
a Massachusetts corporation,
Defendant-Appellant.

Appeal from the United States District Court
for the District of Utah

RELEVANT DOCKET ENTRIES

Date	Proceedings
2/9/93	[653222] Civil case docketed. Preliminary record filed. Transcript order form due 2/16/93 for Reeve Butler pursuant to R.42.1 Docketing statement due 2/19/93 for Digital Equipment Notice of appearance due 2/19/93 for Digital Equipment, for Desktop Direct, Inc. (lwb)
2/26/93	[657525] Order filed by RLH (err)—considering this case for summary disposition under 10 Cir. R. 27. Parties' simultaneous memorandum briefs due 3/19/93 for Digital Equipment, for Desktop Direct, Inc. BRIEFING ON THE MERITS IS TOLLED. Parties served by mail. (ss)

Date	Proceedings
3/19/93	[662597] Appellant's memorandum brief filed by Digital Equipment. Original and 7 copies. c/s: y (kc)
3/19/93	[662600] Appellee's memorandum brief filed by Desktop Direct, Inc. Original and 7 copies. c/s: y (kc)
3/25/93	[664547] Appellant's motion filed by Appellant Digital Equipment for leave to file supplemental memorandum [93-4024]. Original and 7 copies c/s: y (lwb)
3/29/93	[664631] Appellant's motion filed by Appellant Digital Equipment for stay pending appeal and attached memorandum. [93-4024]. Original and 3 copies c/s: y (lwb)
3/30/93	[665129] Order filed by (er) RLH granting Appellant/Petitioner motion for leave to file supplemental memorandum [664547-1] Parties served by mail. (lwb)
3/30/93	[665132] Appellant's supplemental memorandum brief filed by Digital Equipment. Original and 6 copies. c/s: y (lwb)
4/2/93	[665873] Order filed by RLH—REFERRING JURISDICTIONAL ISSUES TO PANEL ON THE MERITS. Appellant's brief and appendix due 5/12/93 for Digital Equipment. (err) Parties served by mail. (ss)
4/6/93	[666794] Appellee's memorandum in opposition to (1) appellant's motion for leave to file a supplemental memorandum brief on the issue of jurisdiction; and (2) appellant's supplemental memorandum brief in support of jurisdiction filed by Desktop Direct, Inc. Original and 7 copies. c/s: y (kc)
4/6/93	[666828] Appellant's motion for stay submitted to panel. (kc)

Date	Proceedings
4/13/93	[668659] Appellee's memorandum brief filed by Desktop Direct, Inc. Original and 7 copies. c/s: y (kc)
4/19/93	[670275] Appellant's motion for leave to file a reply memorandum in support of its motion for emergency stay filed by Appellant Digital Equipment [93-4024]. Original and 3 copies c/s: y (kc)
4/19/93	[670286] Appellant's reply memorandum in support of appellant's motion for emergency stay filed by Digital Equipment. Original and 3 copies. c/s: y (kc)
4/26/93	[672701] Appellee's memo in opposition to appellant's motion for leave to file a reply memo and in opposition to appellant's proposed reply memo, filed by Desktop Direct, Inc. Original and 7 copies. c/s: y (lwb)
4/26/93	[673022] Appellant's motion for stay pending appeal resubmitted to panel to add third judge. (mt)
5/12/93	[676613] Appellant's brief received but not filed by Digital Equipment. 5/24/93 for Digital Equipment A/Pet appendix due 5/24/93 for Digital Equipment (mt)
5/17/93	[677760] Procedurally Terminated After Other Judicial Action; Jurisdictional Defects. Motion for stay is denied. Logan, authoring judge; Anderson; Tacha. [93-4024] (lwb)
5/17/93	[677765] Mandate issued. (lwb)
5/27/93	[680609] Mandate receipt filed. (kc)
6/1/93	[681399] Petition for rehearing in banc [93-4024] filed by Digital Equipment. Original and 14 copies. c/s: y (jtp)
6/1/93	[681410] Document [681399-1] Petition for rehearing in banc filed by Appellant Digital Equipment submitted to panel. (jtp)

Date	Proceedings
6/16/93	[685683] Order filed by Judges McKay, Logan, Seymour, Moore, Anderson, Tacha, Baldock, Brorby, Ebel, Kelly denying Petition for rehearing in banc [681399-1] (mt)
9/20/93	[713371] Petition for writ of certiorari filed on 9/13/93 by Appellant Digital Equipment Corporation. Supreme Court Number 93-405. (mt)
10/12/93	[713470] copy of Supreme Court order granting the motion to stay the district court order filed. (kc)
11/5/93	[719402] Supreme Court order dated 11/1/93 granting certiorari filed. (kc)